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Attorneys for Plaintiff
MARIBEL MURILLO

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

MARIBEL MURILLO, individually
and as successor-in-interest of the
estate of deceased, JONATHAN
MURILLO-NIX,

Plaintiff,

vs.

CITY OF LOS ANGELES, a
governmental entity; JESUS
MARTINEZ, individually; KYLE
GRIFFIN, individually; and DOES 1-
10, inclusive,

Defendants.

Case No.: 2:22-cv-03188 DMG (SKx)

[*Honorable Dolly M. Gee*]
Magistrate Judge Steve Kim

**LOCAL RULE 79-5.2.2(b)
DECLARATION OF MARCEL F.
SINCICH IN SUPPORT OF
APPLICATION FOR LEAVE TO
FILE UNDER SEAL EXHIBITS IN
OPPOSITION TO DEFENDANTS'
MOTION FOR SUMMARY
JUDGMENT**

[Application for Leave to File Under
Seal; Notice of Manuel Filing, and
[Proposed] Order *filed concurrently*
herewith]

Date: July 24, 2023
Time: 9:30 a.m.
Judge: Hon. Mark C. Scarsi
Courtroom 7C, 7th Floor

DECLARATION OF MARCEL F. SINCICH

I, Marcel F. Sincich, hereby declare as follows:

1. I am an attorney licensed to practice law in the United States District Court for the Central District of California. I am one of the attorneys of record for Plaintiffs in this instant action. I have personal knowledge of the matters stated herein and could and would testify competently thereto if called.

2. On November 16, 2023, seven days prior to the filing of this application, Plaintiff's counsel contacted Defendants' counsel, and the Los Angeles District Attorney's Office. Plaintiffs' counsel and counsel for the LADA, and Defendants Martinez and Griffin (on behalf of the "joint Defendants") corresponded regarding Plaintiffs' intention to file several exhibits that are subject to the Protective Order. Attorneys for the City of Los Angeles did not respond directly. Plaintiff's counsel requested from Defendants' counsel an agreement to lift the confidential designation, and if not, what specific information requires secrecy so that the parties can discuss redaction.

3. Counsel for the LADA deferred the designation to the City as the documents in question are City documents involving LAPD officers. Defendants agreed that videos do not need to be filed under seal. However, Defendants' position is that involved officer statements, the FID Report, the autopsy report, and evidence photographs "need to be filed under seal since they contain confidential and privileged information – including implicating the privacy rights of third parties." Plaintiff's counsel responded specifying exactly which photographs and which officer statements are of issue and requested a list of all information within that contains confidential or privileged information so that the parties can discuss redaction. Defense counsel replied that the "officer statements, FID and Autopsy reports are all confidential and need to remain sealed, especially as they implicate third-party privacy rights and also include confidential personnel information related to officers that did not use lethal force." Defense counsel did not provide a single

1 citation of confidential or privileged information not related to the use of force for
2 Plaintiff's counsel to redact. On November 20, 2023, Defense counsel did state that
3 he would pull specific bates numbers regarding confidential information, however
4 as of the time of filing this ex parte application, Plaintiff has not received those bates
5 numbers. It is Plaintiff's understanding that counsel for both Defendants intend to
6 oppose Plaintiff's application for leave to file under seal provided that Plaintiff's are
7 seeking an order to allow Plaintiff's authority to file regularly. Attached hereto as
8 **Exhibit A** is a true and correct copy of the correspondences of the parties.

9 4. Plaintiff files this application pursuant to L.R. 79-5.2.2(b) on an *ex*
10 *parte* basis because these exhibits are necessary to Plaintiff's opposition to
11 Defendants' Motions for Summary Judgment (Doc. 44), and by the time Plaintiff
12 received Defendants' Motion and determined what exhibits to use in opposition,
13 there was insufficient time in advance of the November 24, 2023 opposition due
14 date (which is pushed to the left provided that November 23-24, 2023 are court
15 holidays) or December 15, 2023 summary judgment hearing for this application to
16 be heard as a regularly noticed motion. Plaintiff also attempted to hold off as long as
17 possible to provide Defense counsel a change to provide specific information that
18 could be redacted so that the documents could be filed regularly, but Plaintiff has
19 not received such information from the Defense.

20 5. Defendants, including the LADA, are the "Designating Party," as
21 defined by the Protective Order (Doc. 35), as Defendant City and the LADA
22 produced and designated the subject documents as "Confidential" pursuant to the
23 protective order and Defendants Martinez and Griffin join in the claim for
24 confidentiality. The LADA has deferred to the City of Los Angeles as the
25 Designating Party because the documents at issue are City documents or involve
26 LAPD officer information.

27 6. Plaintiff contends that these documents are suitable for redaction but
28 that there is no information pointed out to Plaintiff's within each document that

1 requires protection of confidentiality. If it is information that Plaintiff is not citing to
2 in opposition to summary judgment, Plaintiff has no issue with redacted versions of
3 the documents at issue. Nevertheless, these documents are relevant portions of
4 transcripts of interview of the officers involved, including officers who used force
5 against Murillo and witnessed the force being used against Murillo, use of force
6 review by City officials, and evidence photographs, the entirety of which are
7 relevant to Plaintiff's Opposition to Summary Judgment. Plaintiff also does not
8 believe that the documents themselves nor any information contained within are
9 confidential or privileged (see descriptions below).

10 7. The following documents were designated as "Confidential" by the
11 Defendants and are the subject of Plaintiffs' L.R. 79-5.2.2(b) application, and which
12 are to be attached to the Declaration of Marcel F. Sincich ("Sincich Decl") in
13 support of Plaintiffs' Opposition to Summary Judgment:

14 a. "Exhibit 2" to Sincich Decl: relevant portions of the February 1,
15 2022, First Statement of Officer Kyle Griffin, produced by Defendants during
16 discovery as CITY 1022-1043. This statement contains Officer Griffin's
17 contemporaneous memory of the events in question—the officer involved
18 shooting of Murillo. Officer Griffin used deadly force against Murillo during
19 this incident.

20 b. "Exhibit 3" to Sincich Decl: relevant portions of the February 2,
21 2022, Second Statement of Officer Kyle Griffin, produced by Defendants
22 during discovery as CITY 1044-1107. This statement contains Officer
23 Griffin's contemporaneous memory of the events in question—the officer
24 involved shooting of Murillo. Officer Griffin used deadly force against
25 Murillo during this incident.

26 c. "Exhibit 5" to Sincich Decl: relevant portions of the February 1,
27 2022, First Statement of Officer Jesus Martinez, produced by Defendants
28 during discovery as CITY 802-824. This statement contains Officer

1 Martinez's contemporaneous memory of the events in question—the officer
2 involved shooting of Murillo. Officer Martinez used deadly force against
3 Murillo during this incident.

4 d. "Exhibit 6" to Sincich Decl: relevant portions of the February 2,
5 2022, Second Statement of Officer Jesus Martinez, produced by Defendants
6 during discovery as CITY 825-890. This statement contains Officer
7 Martinez's contemporaneous memory of the events in question—the officer
8 involved shooting of Murillo. Officer Martinez used deadly force against
9 Murillo during this incident.

10 e. "Exhibit 7" to Sincich Decl: relevant portions of the February 2,
11 2022, Statement of Sergeant Francisco Alferez, produced by Defendants
12 during discovery as CITY 1317-1388 and produced by the County of Los
13 Angeles District Attorney's Office via Subpoena as LADA 903-974. This
14 statement contains Sgt. Alferez's contemporaneous memory of the events in
15 question—the officer involved shooting of Murillo. Sgt. Alvarez was the
16 incident commander of the incident and saw the shooting occur.

17 f. "Exhibit 8" to Sincich Decl: relevant portions of the February 8,
18 2022, Statement of Officer Nicholas Knolls, produced by Defendants during
19 discovery as CITY 1211-1266 and produced by the County of Los Angeles
20 District Attorney's Office via Subpoena as LADA 797-852. This statement
21 contains Officer Knolls's contemporaneous memory of the events in
22 question—the officer involved shooting of Murillo. Officer Knolls was a
23 senior officer positioned directly behind Defendant Officers Griffin and
24 Martinez during the officer-involved shooting and whose body-worn camera
25 captured the officer-involved shooting.

26 g. "Exhibit 9" to Sincich Decl: relevant portions of the February 2,
27 2022, Statement of Officer Eric Schlesinger, produced by Defendants during
28 discovery as CITY 581-650 and produced by the County of Los Angeles

1 District Attorney's Office via Subpoena as LADA 352-411. This statement
2 contains Officer Schlesinger's contemporaneous memory of the invents in
3 question—the officer involved shooting of Murillo. Officer Schlesinger used
4 less-lethal force against Murillo during this incident.

5 h. "Exhibit 10" to Sincich Decl: relevant portions of the February 7,
6 2022, Statement of Officer Daniel Frazer, produced by Defendants during
7 discovery as CITY 509-536 and produced by the County of Los Angeles
8 District Attorney's Office via Subpoena as LADA 270-297. This statement
9 contains Officer Frazer's contemporaneous memory of the invents in
10 question—the officer involved shooting of Murillo. Further, Officer Frazer
11 was positioned at the patrol vehicle in which Defendants were positioned
12 during the incident.

13 i. "Exhibit 11" to Sincich Decl: relevant portions of the February
14 10, 2022, Statement of Officer Greorgiy Tykhomryov, produced by
15 Defendants during discovery as CITY 689-715 and produced by the County
16 of Los Angeles District Attorney's Office via Subpoena as LADA 450-477.
17 This statement contains Officer Tykhomryov's contemporaneous memory of
18 the invents in question—the officer involved shooting of Murillo. It is alleged
19 by Defendants that Officer Tykhomryov also attempted used less-lethal force
20 against Murillo during the incident.

21 j. "Exhibit 12" to Sincich Decl: relevant portions of the February
22 22, 2022, Statement of Officer Joshua Carlos, produced by the County of Los
23 Angeles District Attorney's Office via Subpoena as LADA 595-645. This
24 statement contains Officer Carlos's contemporaneous memory of the invents
25 in question—the officer involved shooting of Murillo. Further, Officer Carlos
26 was positioned at the patrol vehicle in which Defendants were positioned
27 during the incident.
28

1 k. “Exhibit 13” to Sincich Decl: relevant portions of the February
2 22, 2022, Statement of Officer Luis Lopez, produced by Defendants during
3 discovery as CITY 1108-1149 and produced by the County of Los Angeles
4 District Attorney’s Office via Subpoena as LADA 694-735. This statement
5 contains Officer Lopez’s contemporaneous memory of the events in
6 question—the officer involved shooting of Murillo. Further, Officer Lopez
7 was positioned at the patrol vehicle in which Defendants were positioned
8 during the incident and went hands on with Murillo after the shooting.

9 l. “Exhibit 14” to Sincich Decl: relevant portions of the February 2,
10 2022, Statement of Officer Marcos Gutierrez, produced by Defendants during
11 discovery as CITY 1150-1177 and produced by the County of Los Angeles
12 District Attorney’s Office via Subpoena as LADA 736-763. This statement
13 contains Officer Gutierrez’s contemporaneous memory of the events in
14 question—the officer involved shooting of Murillo. Further, Officer Gutierrez
15 used less-lethal force against Murillo during the incident.

16 m. “Exhibit 15” to Sincich Decl: relevant portions of the February 8,
17 2022, Statement of Officer Sabrina Martinez, produced by Defendants during
18 discovery as CITY 1267-1303 and produced by the County of Los Angeles
19 District Attorney’s Office via Subpoena as LADA 853-889. This statement
20 contains Officer Martinez’s contemporaneous memory of the events in
21 question—the officer involved shooting of Murillo. Further, Officer Martinez
22 was positioned at the patrol vehicle in which Defendants were positioned
23 during the incident and went hands on with Murillo after the shooting.

24 n. “Exhibit 16” to Sincich Decl: relevant portions of the February 4,
25 2022, Statement of Officer Michael Proni, produced by Defendants during
26 discovery as CITY 1178-1210 and produced by the County of Los Angeles
27 District Attorney’s Office via Subpoena as LADA 764-796. This statement
28 contains Officer Proni’s contemporaneous memory of the events in

1 question—the officer involved shooting of Murillo. Further, Officer Proni
2 was positioned near Officer Schlesinger during his 40mm deployment and
3 saw Murillo exiting the house.

4 o. “Exhibit 17” to Sincich Decl: relevant portions of the February 2,
5 2022, Statement of Officer Eduardo Piche, produced by Defendants during
6 discovery as CITY 537-580 and produced by the County of Los Angeles
7 District Attorney’s Office via Subpoena as LADA 298-341. This statement
8 contains Officer Piche’s contemporaneous memory of the events in
9 question—the officer involved shooting of Murillo. Further, Officer Piche
10 was positioned near Officer Schlesinger during his 40mm deployment and
11 saw Murillo exiting the house.

12 p. “Exhibit 18” to Sincich Decl: relevant portions of the County of
13 Los Angeles Department of Medical Examiner-Coroner Autopsy Report of
14 Decedent Jonathen Murillo-Nix, produced by Defendants during discovery as
15 CITY 308-322. This record summarizes the findings of the Coroner,
16 including the cause of Murillo’s death, the contributing factors of his death,
17 the manner of death, how many times Murillo was shot, where he was shot and
18 the effect those shots had on his body—all directly related to the use of force
19 used against Murillo during the incident.

20 q. “Exhibit 19” to Sincich Decl: Los Angeles Force Investigation
21 Division Report, produced by Defendants during discovery as CITY 208-246
22 and produced by the County of Los Angeles District Attorney’s Office via
23 Subpoena as LADA 11-46. This FID Report summarizes the evidence
24 collected and provides an analysis of that evidence pertaining to this use of
25 force incident, in part to be relied upon by the City in making their findings
26 related to whether the use of deadly force was within necessary.

27 r. “Exhibit 22” to Sincich Decl: photographs of involved officer
28 weapons, produced by Defendants during discovery as CITY 1866, 1872,

1 1890, and 1906. These photographs include the 40mm, the beanbag shotgun,
2 and the two lethal pistols all used against Murillo during the incident.

3 s. “Exhibit 23” to Sincich Decl: photographs of involved officer
4 weapons, produced by Defendants during discovery as CITY 1722, 1724,
5 1731, 1733, 1735, 1736, 1737, 1738, 1739, 1740, 1741, 1742, 1743, 1754,
6 and 1757. These photographs include where the shootings took place, where
7 the officers were positioned, the path Murillo took during the incident, and
8 evidence markers of where items of evidence were located.

9 8. The documents listed above were all produced to Plaintiff during
10 discovery, and when they were produced, they were marked as confidential. The
11 language of the Protective Order (Doc. 35) includes the burden of persuasion as to
12 whether these documents are properly designated as confidential is on the
13 designating party. Further, the protective order prohibits mass, indiscriminate, or
14 routinized designations. Plaintiffs contend that the designations to these documents,
15 which are all directly relevant to this civil rights action and necessary for the
16 opposition of a dispositive motion, are just that.

17 9. In accordance with L.R. 79-5.2.2, a copy of this Declaration was served
18 on Defendant counsel, Kevin E. Gilbert, of the firm Orbach Huff + Henderson LLP,
19 on Defendant City of Los Angeles’s counsel, Christian R. Bojorquez, from the City
20 Attorney’s Office, and on Tomas A. Guterres, of Collins + Collins, LLP, on
21 November 22, 2023.

22 10. Attached hereto as “**Exhibit B**” is a true and correct copy of proof of
23 service.

24 I declare under penalty of perjury under the laws of the United States of
25 America that the foregoing is true and correct, and that this declaration was executed
26 this 22nd day of November 2023.

27 Marcel F. Sincich

28 Marcel F. Sincich

“EXHIBIT A”

From: [Kevin Gilbert](#)
To: [Marcel Sincich](#); [Tom Guterres](#); [Vicki Wood](#); [Dalekgalipo@yahoo.com](#); [Cameron Sehat](#)
Cc: [Jennifer Deleon](#); [j.mikel@sehatlaw.com](#); [chris.s@sehatlaw.com](#); [Elena LaBella](#); [Caroline Castillo](#); [Carolyn M. Aguilar](#); [Christian.bojorquez@lacity.gov](#); [Jennifer Deleon](#); [Karen Slyapich](#)
Subject: RE: 25019 | Maribel Murillo et al. vs. City of Los Angeles, et al. | USDC Case No. 2:22-cv-03188-DMG (SK)
Date: Monday, November 20, 2023 06:07:10

The officer statements, FID and Autopsy reports are all confidential and need to remain sealed, especially as they implicate third-party privacy rights and also include confidential personnel information related to officers that did not use lethal force. I won't be able to pull the specific bates numbers until later, but will review them when I can to see if they need to remain confidential.

From: Marcel Sincich <msincich@galipolaw.com>
Sent: Friday, November 17, 2023 11:15 AM
To: Kevin Gilbert <kgilbert@ohhlegal.com>; Tom Guterres <TGuterres@ccllp.law>; Vicki Wood <VWood@ccllp.law>; Dalekgalipo@yahoo.com; Cameron Sehat <cameron@sehatlaw.com>
Cc: Jennifer Deleon <jdeleon@galipolaw.com>; j.mikel@sehatlaw.com; chris.s@sehatlaw.com; Elena LaBella <elabella@ohhlegal.com>; Caroline Castillo <caroline.castillo@lacity.org>; Carolyn M. Aguilar <caguilar@ohhlegal.com>; Christian.bojorquez@lacity.gov; Jennifer Deleon <jdeleon@galipolaw.com>; Karen Slyapich <kslyapich@galipolaw.com>
Subject: RE: 25019 | Maribel Murillo et al. vs. City of Los Angeles, et al. | USDC Case No. 2:22-cv-03188-DMG (SK)

Officer statements include officers Griffin, Martinez, Alferez, Carlos, Frazer, Gutierrez, Knolls, Lopez, S.Martinez, Piche, Proni, Schlesinger, and Tykhomyrov. The FID Report and the Autopsy Report are not broad categories of documents, but specific documents. Photos of officer weapons includes CITY 1866, 1872, 1890, and 1906. Scene photos include CITY 1722, 1724, 1731, 1733, 1735, 1736, 1737, 1738, 1739, 1740, 1741, 1742, 1743, 1754, and 1757.

For each of these, please list all information contained within that contains confidential or privileged information so that we can discuss redaction.

I am available to discuss in further detail. Please let me know when you are available.
Thank you.

Very Respectfully,

Marcel F. Sincich, Esq.

Law Offices of Dale K. Galipo | 21800 Burbank Blvd., Suite 310, Woodland Hills, CA 91367 |

Office: +1.818.347.3333 | Fax: +1.818.347.4118 | Email: msincich@galipolaw.com

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From: Kevin Gilbert <kgilbert@ohhlegal.com>

Sent: Friday, November 17, 2023 10:17

To: Marcel Sincich <msincich@galipolaw.com>; Tom Guterres <TGuterres@ccllp.law>; Vicki Wood <VWood@ccllp.law>; Dalekgalipo@yahoo.com; Cameron Sehat <cameron@sehatlaw.com>

Cc: Jennifer Deleon <jdeleon@galipolaw.com>; j.mikel@sehatlaw.com; chris.s@sehatlaw.com; Elena LaBella <elabella@ohhlegal.com>; Caroline Castillo <caroline.castillo@lacity.org>; Carolyn M. Aguilar <caguilar@ohhlegal.com>; Christian.bojorquez@lacity.gov

Subject: RE: 25019 | Maribel Murillo et al. vs. City of Los Angeles, et al. | USDC Case No. 2:22-cv-03188-DMG (SK)

Please make sure to copy Elena LaBella (cc'd on this email) on further correspondence for this matter. The joint Defendants agree that the videos do not need to be filed under seal. However, the remaining categories of documents that you identify do still need to be filed under seal since they still contain confidential and privileged information – including implicating the privacy rights of third parties. Since your request only addresses broad categories of documents and does not identify or provide the specific document(s) and information that is proposed to be filed, we cannot provide a more detailed and specific response.

Thanks,
Kevin

From: Marcel Sincich <msincich@galipolaw.com>

Sent: Thursday, November 16, 2023 11:12 AM

To: Tom Guterres <TGuterres@ccllp.law>; Vicki Wood <VWood@ccllp.law>; Christian.bojorquez@lacity.gov; Kevin Gilbert <kgilbert@ohhlegal.com>; Carolyn M. Aguilar <caguilar@ohhlegal.com>; Caroline Castillo <caroline.castillo@lacity.org>

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Subject: RE: 25019 | Maribel Murillo et al. vs. City of Los Angeles, et al. | USDC Case No. 2:22-cv-03188-DMG (SK)

Dear counsel,

I hope all is well. Pursuant to LR 79-5.2.2, we request a meet and confer as soon as possible to discuss documents Plaintiff intend to use in opposition to summary judgment which either or all Defendants, City, and LADA have designated as “Confidential” pursuant to the protective order. Given the holidays, Plaintiff’s opposition to summary judgment is likely to be filed on Wednesday November 22, 2023.

Plaintiff is attempting to eliminate or minimize the need to file documents under seal. We request that you agree to lift the confidential designation of these documents either as is or with redaction where necessary. Given that all these documents relate to the historical facts of this incident and the investigations thereafter, they are directly relevant to Defendants’ motions for summary judgment and Plaintiff contends do not include anything confidential.

If Defendants, City, or LADA do not agree to lift the designation or identify anything confidential which can be redacted, in order to file exhibits regularly, Plaintiff will need to request leave of court on an *ex parte* basis no later than Monday November 20, 2023.

We wish to discuss the following documents:

- Officer Statements
- FID Report
- Evidence photographs (evidence markers, officer weapons and scene)
- Autopsy Report
- Videos of the incident produced by LADA

Please let me know when you are available to discuss this, I am available this afternoon and anytime tomorrow. We appreciate your prompt response.

Very Respectfully,

Marcel F. Sincich, Esq.

Law Offices of Dale K. Galipo | 21800 Burbank Blvd., Suite 310, Woodland Hills, CA
91367 | Office: +1.818.347.3333 | Fax: +1.818.347.4118 | Email:
msincich@galipolaw.com

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Cc: [Jennifer Deleon](#); j.mikel@sehatlaw.com; chris.s@sehatlaw.com; [Elena LaBella](#); [Caroline Castillo](#); [Carolyn M. Aguilar](#); Christian.bojorquez@lacity.gov
Subject: RE: 25019 | Maribel Murillo et al. vs. City of Los Angeles, et al. | USDC Case No. 2:22-cv-03188-DMG (SK)
Date: Friday, November 17, 2023 10:16:48

Please make sure to copy Elena LaBella (cc'd on this email) on further correspondence for this matter. The joint Defendants agree that the videos do not need to be filed under seal. However, the remaining categories of documents that you identify do still need to be filed under seal since they still contain confidential and privileged information – including implicating the privacy rights of third parties. Since your request only addresses broad categories of documents and does not identify or provide the specific document(s) and information that is proposed to be filed, we cannot provide a more detailed and specific response.

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Cc: dalekgalipo@yahoo.com; Cameron Sehat <cameron@sehatlaw.com>; Jennifer Deleon <jdeleon@galipolaw.com>; j.mikel@sehatlaw.com; chris.s@sehatlaw.com
Subject: RE: 25019 | Maribel Murillo et al. vs. City of Los Angeles, et al. | USDC Case No. 2:22-cv-03188-DMG (SK)

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Plaintiff is attempting to eliminate or minimize the need to file documents under seal. We request that you agree to lift the confidential designation of these documents either as is or with redaction where necessary. Given that all these documents relate to the historical facts of this incident and the investigations thereafter, they are directly relevant to Defendants’ motions for summary judgment and Plaintiff contends do not include anything confidential.

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We wish to discuss the following documents:

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- Evidence photographs (evidence markers, officer weapons and scene)
- Autopsy Report
- Videos of the incident produced by LADA

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Very Respectfully,

Marcel F. Sincich, Esq.

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Subject: RE: 25019 | Maribel Murillo et al. vs. City of Los Angeles, et al. | USDC Case No. 2:22-cv-03188-DMG (SK)
Date: Thursday, November 16, 2023 12:28:26
Attachments: [image001.png](#)

On behalf of the DA's Office we will defer to the City as the majority of the documents at issue are City documents and/or involve LAPD Officer information.

Thank you for reaching out.

Tomas A. Guterres
Attorney at Law

T: 626-243-1100 | C: 626-278-5007
790 E. Colorado Boulevard, Suite 600
Pasadena, CA 91101
tguterres@ccllp.law
www.ccllp.law

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Pasadena 626-243-1100 - Orange 714-823-4100 - San Diego 760-274-2110
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Subject: RE: 25019 | Maribel Murillo et al. vs. City of Los Angeles, et al. | USDC Case No. 2:22-cv-03188-DMG (SK)

Dear counsel,

I hope all is well. Pursuant to LR 79-5.2.2, we request a meet and confer as soon as possible to discuss documents Plaintiff intend to use in opposition to summary judgment which either or all Defendants, City, and LADA have designated as "Confidential" pursuant to the protective order. Given the holidays, Plaintiff's opposition to summary judgment is likely to be filed on Wednesday November 22, 2023.

Plaintiff is attempting to eliminate or minimize the need to file documents under seal. We request that you agree to lift the confidential designation of these documents either as is or

with redaction where necessary. Given that all these documents relate to the historical facts of this incident and the investigations thereafter, they are directly relevant to Defendants' motions for summary judgment and Plaintiff contends do not include anything confidential.

If Defendants, City, or LADA do not agree to lift the designation or identify anything confidential which can be redacted, in order to file exhibits regularly, Plaintiff will need to request leave of court on an *ex parte* basis no later than Monday November 20, 2023.

We wish to discuss the following documents:

- Officer Statements
- FID Report
- Evidence photographs (evidence markers, officer weapons and scene)
- Autopsy Report
- Videos of the incident produced by LADA

Please let me know when you are available to discuss this, I am available this afternoon and anytime tomorrow. We appreciate your prompt response.

Very Respectfully,

Marcel F. Sincich, Esq.

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THIS EMAIL MESSAGE IS FOR THE SOLE USE OF THE INTENDED RECIPIENT AND MAY CONTAIN CONFIDENTIAL, AND PRIVILEGED INFORMATION. ANY UNAUTHORIZED REVIEW, USE, DISCLOSURE OR DISTRIBUTION IS PROHIBITED. IF YOU ARE NOT THE INTENDED RECIPIENT,

“EXHIBIT B”

PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I am employed in the County of Los Angeles, State of California and am over the age of eighteen years and not a party to the within action. My business address is 21800 Burbank Boulevard, Suite 310, Woodland Hills, California 91367.

On November 22, 2023, I served the foregoing document described as: **LOCAL RULE 79-5.2.2(b) DECLARATION OF MARCEL F. SINCICH IN SUPPORT OF APPLICATION FOR LEAVE TO FILE UNDER SEAL EXHIBITS IN OPPOSITION TO DEFENDANTS' MOTION FOR SUMMARY JUDGMENT** on all interested parties, through their respective attorneys of record in this action by placing a true copy thereof enclosed in a sealed envelope addressed as indicated on the attached service list.

METHOD OF SERVICE

☒ (BY MAIL) I enclosed the documents in a sealed envelope or package and addressed to the parties at the addresses as indicated on the attached service list.

☐ I deposited the sealed envelope or package with the United States Postal Service, with the postage fully prepaid thereon.

☒ I placed the envelope or package for collection and mailing, following our ordinary business practices. I am readily familiar with the practice of this office for the collection, processing and mailing of documents. On the same day that documents are placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service, in a sealed envelope with postage fully prepaid.

☒ (BY ELECTRONIC SERVICE) I caused the foregoing document(s) to be sent via electronic transmittal to the notification addresses listed below as registered with this court's case management/electronic court filing system.

☐ (BY FEDERAL EXPRESS) I enclosed the documents in an envelope or package provided by an overnight delivery carrier and addressed to the persons at the addresses as indicated on the attached service list. I placed the envelope or package for collection and overnight delivery at an office or regularly utilized drop box of the overnight delivery carrier.

I declare that I am employed in the office of a member of the bar of this Court at whose direction the service was made.

Executed on November 22, 2023, at Woodland Hills, California.

Karen Slyapich

Karen Slyapich

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